

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 10

REMARKS

The present response is intended to be fully responsive to all points of objection and rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Remarks to the Specification

The amendments to the specification are editorial in nature and are meant to correct form and language only. No new matter has been added.

Remarks to the Drawings

Fig. 3 has been amended in one place to match the text on page 14, paragraph number [0052] by adding the previously omitted element 28.

Status of Claims

Claims 1-24 are pending in the application. Claims 1-16 have been withdrawn from consideration. Claims 17-24 have been rejected. Claims 17 and 23-24 have been amended.

Applicants respectfully assert that the amendments to the claims add no new matter.

Double Patenting Rejections

In the Office Action, the Examiner rejected claims 17-24 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,474,592.

Applicants have attached hereby an executed terminal disclaimer. Claims 17-24 should now be allowable. Applicants request allowance of all pending claims.

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 11

Claim Objections

In the Office Action, the Examiner objected to claims 22-24 because of alleged informalities. Claims 22-24 have been amended in order to cure these informalities. Accordingly, Applicants request withdrawal of the objection.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejections

In the Office Action, the Examiner rejected claims 17-24 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claim 17 has been amended to add the elements that the connecting and negotiating are done with components, e.g., an antenna and resources, respectively, that are “inherent to the platform electronic system”. Applicants respectfully assert that this amendment overcomes the antecedent basis deficiencies noted by the Examiner. It is respectfully asserted that the foregoing amendment merely addresses matters of form and does not change the literal scope of the claim in any way or result in any prosecution history estoppel.

With regards to the Examiner comment about the term “impact assessment unit”, Applicants respectfully assert that the term “impact assessment unit” is described in the specification and that its functionality is explained. For example and without limitation, on page 12, paragraph [045], it is stated that in one embodiment of the invention “[p]erforming the processing on board [of the smart munition] overcomes the space limitations imposed on the platform or on the monitoring unit, thus enabling, by utilizing a platform or a monitoring unit mounted receiver such as the electronic warfare system inherent to the platform or to the monitoring unit...” (emphasis added). Also, on page, paragraph [056], it is stated that “...by utilizing electronic warfare communication no modifications or addition of hardware to the platform or the monitoring unit are necessary, greatly simplifying deployment of munition...” (emphasis added) and that “...since the electronic warfare system inherent to the platform electronic system 200 may be utilized as a receiver, minimal operator training and handling is required” (emphasis added). Therefore, Applicants respectfully assert that the term “impact

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 12

assessment unit" is proper under 35 U.S.C. §112, and request that the rejection of claims 17-24 be withdrawn.

Applicants disagree with the statement that "[r]e claim 22, it is not understood how the negotiation to provide access to a transmitted to transmit signal works." Applicants respectfully assert that the negotiation is described in several places in the detailed description. For example, on page 17, at the end of paragraph [059] it is stated that "[d]igital data may be transmitted, for example, by QPSK modulation", and on page 18, paragraph [065], an example of how to unsuccessful transmissions is described. Therefore, Applicants respectfully assert that claim 22 is proper under 35 U.S.C. § 112, and request that the rejection of claim 22 be withdrawn.

Applicants respectfully assert that these remarks and amendments render claims 17-24 proper under 35 U.S.C. § 112 and request that the rejections be withdrawn.

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 17-24 under 35 U.S.C. § 102(b), as being anticipated by Shnaps (U.S. Pat. No. 6,345,784, hereinafter the "Shnaps reference"). Applicants respectfully traverse this rejection in view of the remarks that follow.

The Shnaps reference discloses "... a UHF receiver ... for receiving the RF signal generated by transmitter 28... the incoming signal is converted into audio information, preferably voice..." (the Shnaps reference, col 8, lines 57-63). The Shnaps reference does not teach or suggest and the Examiner does not suggest that the Shnaps reference teaches or suggests "connecting an impact assessment unit with a platform electronic system, so as to enable reception of a plurality of signals from a smart munition to an antenna inherent to said platform electronic system" and "negotiating access to resources inherent to the platform electronic system" (emphasis added), as recited in amended independent claim 17. For a reference to anticipate a claim, the reference must teach all elements of the claim. Therefore, the Shnaps reference cannot anticipate claim 17 as amended.

Accordingly, Applicants respectfully assert that amended independent claim 17 is allowable. Claims 18-24 depend from, directly or indirectly, claim 17, and therefore include all the limitations of those claims. Therefore, Applicants respectfully assert that claims 18-

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 13

24 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to amended independent claim 17 and to claims 18-24 dependent thereon.

Claims 17, 21, and 24 have been rejected under 35 USC §102(b) as allegedly being anticipated by Riley (U.S. Patent No. 4,185,796, hereinafter the “Riley reference”), Dingee et al. (U.S. Patent No. 5,214,584, hereinafter the “Dingee reference”), or Friedenthal et al. (U.S. Patent No. 5,035,375, hereinafter the “Friedenthal reference”). Applicants respectfully traverse this rejection.

As is well established, in order to successfully assert a prima facie case of anticipation, the Examiner must provide a single prior art document that includes every element and limitation of the claim or claims being rejected.

The Riley Reference

Applicants respectfully disagree with the Examiner’s statement that “Riley discloses a method of using an impact assessment unit 54, 32, regulating communication through a transceiver/receiver 40 and onboard guidance system 42, 44 and a receiving device 48 on the platform for negotiating access”. The Riley reference teaches “A fiber optical transmission system for guiding and controlling a missile. [T]he fiber optic link can provide for up and down link transmission that can provide target and reference position information not available to present wire guided missile systems.” (The Riley reference, abstract). The Riley reference teaches a dedicated communication system that works only with the self-guided munition described in the Riley reference. The Riley reference explicitly states that “information is passed to the fiber optic transmitter 40 through the fiber optic switch 42 through the fiber optic bobbin 44 through the fiber optic 46 to the guidance and control unit 48” (the Riley reference, col. 2, lines 25-28, emphasis added). Therefore, the Riley reference fails to disclose all elements of claim 17 and cannot anticipate claim 17.

The Dingee Reference

Applicants respectfully disagree with the Examiner’s statement that “Dingee et al. discloses a method of using an impact assessment unit 16, 14, 12 regulating communication

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 14

through a transceiver/receiver 30 and onboard guidance system 18, 22 and a receiving device 24 on the platform for negotiating access". The Dingee reference teaches "a bidirectional data interface between a missile processor and an external apparatus includes a pair of function signal paths which extend partly outside the missile. A first component of the interface uses one of the signal paths to couple reprogramming information to the missile processor in response to a prompt from the processor. A second component of the interface responds to a periodic signal on the second signal path to receive missile processor data which the missile processor connects to the first signal path in synchronism with the periodic signal." (the Dingee reference, abstract). The Dingee reference, like the Riley reference, teaches a dedicated communication system that works only with the self-propelled and self-guided flying vehicle described in the Dingee reference. The Dingee reference explicitly states that an "internal protocol of the missile electronics" (The Dingee reference, col. 5, line 55) is used to implement the communication between the missile and the external apparatus.

The Friedenthal Reference

Applicants respectfully disagree with the Examiner's statement that "Friedenthal et al. discloses a method of using an impact assessment unit 16, 18, 22, regulating communication through a transceiver/receiver 30 and onboard guidance system 24, 44 and a receiving device 46, 10 on the platform for negotiating access". The Friedenthal reference teaches "A fiber optic radar guided missile system 10 is disclosed which includes a radar receiver 12 disposed in a missile for receiving radar reflections and providing a first optical signal in response thereto. An optical receiver 14 is disposed at a launcher for receiving the first optical signal and for providing a set of electrical signals in response thereto. A fiber optic link 32 is connected between the missile and the launcher for communicating the first optical signal from the radar receiver 12 to the optical receiver 14" (the Friedenthal reference, abstract). The Friedenthal reference, like the Riley and the Dingee references, teaches a dedicated communication system that works only with the missile described in the Friedenthal reference. The Friedenthal reference explicitly states that "The system 10 includes a missile subsystem 12 and a launcher subsystem 14." (The Friedenthal reference, col. 2, lines 36-37)

Therefore, Applicants respectfully assert that the Office Action has failed to establish a *prima facie* showing of anticipation and Applicants respectfully request that the rejection to

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 15

independent claim 17 be withdrawn. Claims 21 and 24 are dependent from claim 17. Applicants therefore respectfully assert that the rejection of claims 21 and 24 should be withdrawn.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 18-20, 22 and 23 under 35 U.S.C. § 103(a), as being unpatentable over the Riley, Dingee or Friedenthal references in view of Cronkhite et al. (U.S. Patent No. 5,308,022, hereinafter the "Cronkhite reference") or Eschenbach (U.S. Patent No. 5,820,080, hereinafter the "Eschenbach reference") or the Shnaps reference.

Applicants respectfully traverse the rejection of claims 18-20, 22 and 23 under 35 U.S.C. § 103(a).

Applicants assert that neither the Riley, Dingee or Friedenthal references nor the Cronkhite, Eschenbach or Shnaps references, alone or in combination, teach or suggest "connecting an impact assessment unit with a platform electronic system, so as to enable reception of a plurality of signals from a smart munition to an antenna inherent to said platform electronic system" and "negotiating access to resources inherent to the platform electronic system" (emphasis added), as recited in amended independent claim 17. It would not be obvious to include "connecting an impact assessment unit with a platform electronic system, so as to enable reception of a plurality of signals from a smart munition to an antenna inherent to said platform electronic system" and "negotiating access to resources inherent to the platform electronic system" (emphasis added), as recited in amended independent claim 17, in the Riley, Dingee or Friedenthal references. Thus, neither the Riley, Dingee or Friedenthal references nor the Cronkhite, Eschenbach or Shnaps references, alone or in combination, teach or suggest the invention of independent claim 17, and therefore, of claims 18-20, 22 and 23 as well.

An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Since the Riley, Dingee or Friedenthal references, or the Cronkhite, Eschenbach or Shnaps references, alone or in combination, do not teach or suggest all the elements of any of independent claim 17, the Examiner fails to

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 16

establish a prima facie showing that the Riley, Dingee or Friedenthal references, or the Cronkhite, Eschenbach or Shnaps references, alone or in combination, teach or suggest every feature of claims **18-20, 22 and 23**.

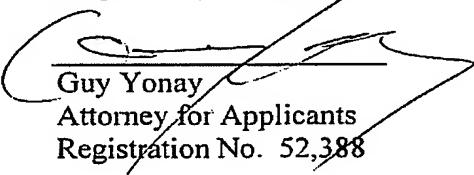
Applicants note that none of the amendments to the claims herein are in response to the above discussed prior art rejections.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Améndment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 05-0649.

Respectfully submitted,


Guy Yonay
Attorney for Applicants
Registration No. 52,388

Dated: December 8, 2004

Eitan, Pearl, Latzer & Cohen Zedek, LLP.
10 Rockefeller Plaza, Suite 1001
New York, New York 10020
Tel: (212) 632-3480
Fax: (212) 632-3489



APPENDIX

THIS PAGE BLANK (USPTO)

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 4

AMENDMENTS TO THE DRAWINGS

The attached set of drawings includes changes to Fig. 3. This set, which includes Figs. 1a-5, replaces the original set including Fig. 3. In Fig. 3, previously omitted element 28 has been added.